THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.26317 of 2005

Date: 04th April 2006

Between:

S.Vahede, daughter of Sabjan Saheb,
Aged 44 years, staff nurse, SVIMS,
Tirupathi, resident of Tirupathi.

... Petitioner.

And

1. Sri Venkateswara Institute of
   Medical Sciences, Tirupathi,
   Chittoor district, rep. By its Director
   And 5 others.

.... Respondents.

* * *

ORDER:

Questioning the action of the first respondent, in promoting respondents 2 to 6 to the post of Head Nurse by proceedings dated 05.12.2005 as contrary to the orders of this Court in W.P.No.15021 of 2005 dated 08.08.2005 and for a consequential direction to the first respondent to consider and promote the petitioner to the post of Head Nurse in accordance with her ranking in the provisional seniority list dated 20.10.1998 and in terms of the order dated 08.08.2005 in W.P.No.15021 of 2005, the present writ petition is filed.

2. This Court by order in W.P.No.15021 of 2005 dated

8.8.2005, had on taking note that the claim of the petitioner was based on the provisional seniority list dated 20.10.1998, which was admitted by the respondent to be in existence as on the date of order, directed the respondent to consider the case of the petitioner for promotion as and when the respondents proposed to fill up vacancies in the post of Head Nurses in accordance with the said provisional seniority list.

3. This Court, by order in W.P.M.P.No.33823 of 2005 dated 28.12.2005, took note of the fact that the petitioner's name was shown at serial No.29 while respondents 2 to 6 were shown at serial Nos.44, 45, 46, 47 and 49 in the provisional seniority list dated 20.10.1998. This Court upon holding that *prima facie* the promotion of respondents 2 to 6 as Head Nurses appeared unsustainable, suspended the proceedings dated 05.12.2005 whereunder respondents 2 to 6 were promoted as Head Nurses.

4. Despite notice being served none appeared on behalf of respondents 2 to 6. Heard Sri V.Jagapathi, learned counsel for the petitioner and Smt.P.Sarada, learned Standing Counsel, and at their request the writ petition itself is being disposed of at the interlocutory stage.

5. Sri V.Jagapathi, learned counsel for the petitioner would submit that the interim order of this Court was implemented and respondents 2 to 6 were reverted to the post of Staff Nurse. Learned counsel would submit that in view of the earlier order of this Court, in W.P.No.15021 of 2005 dated 8.8.2005, which

attained finality, the petitioner is entitled to be considered for promotion in accordance with the provisional seniority list dated 20.10.1998.

6. Smt.P.Sarada, learned Standing Counsel for the first respondent, would submit that the initial appointment of the petitioner and respondents 2 to 6 was not on the basis of any rational procedure and as and when candidates appeared they were appointed as staff nurses. Learned counsel would submit that a final seniority list has now been published on 08th March 2006 taking into account the ranking of candidates in the selections made at the time of their initial appointment in the year 1992.

7. The fact remains that the selections made earlier and which is impugned in this writ petition is on the basis of the provisional seniority list wherein the petitioner was admittedly shown as senior to the respondents 2 to 6. Depriving the petitioner of promotion when the provisional seniority list dated 20.10.1998 was in force cannot be justified. Selection of respondents 2 to 6 is therefore set aside. Since the final seniority list is now published on 08.03.2006, it is open to the respondents to effect promotions in accordance with the final seniority list. Needless to state that if the petitioner herein is aggrieved by the final seniority list dated 8.3.2006, it is always open for her to challenge the same, in accordance with law.

8. The writ petition is accordingly disposed of. No costs.

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RAMESH RANGANATHAN, J.

Date: 04th April 2006.
BSB